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**REMARKS**

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-40 are pending.

**Amendment to the Claims**

Claims 1-40 have been examined, with no claims being allowed. Applicants have amended Claims 1, 21, and 34.

Applicants' undersigned attorney thanks the Examiner for making the necessary red ink changes to Claims 1 and 21, and believes that these changes are reflected in the currently amended versions of these claims.

Applicants have amended Claims 1, 21, and 34 to clarify that each of the first and second side panels includes a waist edge that is non-parallel with a leg edge. Support for this amendment is found at page 29, lines 16-19, of the specification and in Figs. 4-7.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims remains unchanged.

**Corrected Drawing**

Approval of the proposed drawing correction filed on 11 March 2003 has been noted by Applicants. In conformity therewith, a corrected drawing for Fig. 8 is included at the end of this document.

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**Claim Rejections - 35 USC §102**

The rejection of Claims 1, 2, 5-11, 14-21, 23, 25, 27, 29, 30, 34, and 36-39 under 35 USC §102(b) as being anticipated by U.S. Patent 5,304,162 to Kuen (Kuen '162) is respectfully traversed.

Kuen '162 discloses a fastening system for absorbent articles that includes a pair of strap members that connect a front waist region of a garment to a back waist region of the garment. More particularly, the strap members are generally rectangular in shape.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Kuen '162 does not disclose each and every element of amended Claims 1, 21, and 34. Applicants' invention as claimed in amended independent Claims 1, 21, and 34 requires each of the first and second side panels to have a waist edge non-parallel with a leg edge. This non-parallel configuration allows the waist opening formed by the combination of the side panels and the chassis to conform about the wearer's waist, while simultaneously allowing the leg opening formed by the combination of the side panels and the chassis to conform about the wearer's leg.

As can be seen in Figs. 1 and 3 of Kuen '162, the strap members have a generally rectangular shape wherein both the waist edge of the strap and the leg edge of the strap are linear and substantially parallel to each other. Contrary to the Examiner's assertion that the waist and leg edges are both linear and include a portion which is curved, neither of these edges includes a curved portion. Instead, the areas indicated by the Examiner (i.e., reference numbers 51 and 52 in Fig. 4) are folded segments of the strap member. Despite the fact that the strap member is folded, the waist and leg edges of the strap member remain linear. Even when the strap member is in a folded configuration, which is an unreasonable perspective in which to interpret the linearity of these edges, the edges remain parallel to one another.

For at least the reasons above, Applicants respectfully submit that amended Claims 1, 21 and 34 are not anticipated by Kuen '162. Because Claims 2, 5-11, and 14-20 depend from Claim 1, Claims 23, 25, 27, 29 and 30 depend from Claim

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21, and Claims 36-39 depend from Claim 34, these claims are also not anticipated by Kuen '162. Thus, Applicants respectfully request withdrawal of this rejection.

### Claim Rejections - 35 USC §103

#### A. Bolick in view of Kuepper

The rejection of Claims 1, 9-12, and 17-20 under 35 USC §103(a) as being unpatentable over Bolick (U.S. Patent No. 4,315,508) in view of Kuepper et al. (U.S. Patent No. 5,496,298) is respectfully traversed.

Bolick discloses a combination of absorbent garment and suspension system. The suspension system includes a pair of rectangular elastic straps having fastening devices provided on the ends of the straps that are intended to cooperate with fastening devices in the garment material to connect a front waist panel of the garment to a back waist panel of the garment.

Kuepper et al. disclose a disposable absorbent article having elastomeric ears permanently bonded to a back portion of the chassis, wherein the ears each have a waist edge non-parallel to a leg edge. The elastomeric ears can be releasably attached to a front portion of the chassis.

Neither Bolick nor Kuepper et al. disclose or suggest an absorbent garment having two side panels each releasably connected to both the front and back panels of the garment, wherein each of the side panels has a waist edge non-parallel with a leg edge.

The Examiner suggests that it would be obvious to one of ordinary skill in the art to employ the claimed shape of the elastic fastening device as taught by Kuepper et al. on the Bolick elastic fastening device rather than the rectangular shape thereof. To the contrary, such a modification would defeat or substantially diminish the purpose and function of the elastic straps described in Bolick. More particularly, Bolick suggests that better fit and comfort can be achieved by positioning the elastic straps toward the hips of the wearer and at an angle in the range of from 25° to 45° from horizontal when viewed from a frontal position, thereby producing an upward force that is exceptionally effective in maintaining the garment in place with a minimum degree of discomfort (Col. 2, lines 39-45). Comparing Fig. 4 of Bolick (in

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which the angle from horizontal is illustrated) to Fig. 7 of Kuepper et al., both of which illustrate the respective garments in place on a wearer, it can be seen that the ears of Kuepper et al. range from horizontal to a *negative angle* with respect to horizontal. Although both of these references strive to provide better fit and more comfort, each of these references attempts to achieve this goal through completely different, conflicting constructions. As the Examiner will appreciate, it is never obvious to modify a primary reference in a manner which defeats or substantially diminishes its function. An obviousness rejection which requires such a modification to a primary reference is improper.

For at least the reasons given above, Applicants respectfully submit that the teachings of Bolick in view of Kuepper et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

**B. Kuen '162 in view of Yeo and Wallach**

The rejection of Claims 13, 31-33, and 40 under 35 USC §103(a) as being unpatentable over Kuen '162 in view of Yeo (U.S. Patent No. 5,509,913) in view of Wallach (U.S. Patent No. 4,944,734) is respectfully traversed.

Claims 13, 31-33, and 40 are each directed to flushable parts of the chassis of the garment of the invention. Yeo and Wallach each disclose flushable or biodegradable compositions, with Wallach teaching the use of such materials in absorbent garments. The Examiner suggests that it would be obvious to one of ordinary skill in the art to employ flushable components for at least one, if not all, of the cover, liner and absorbent of the Kuen disposable device as taught by Yeo and Wallach. However, Kuen '162 fails to disclose or suggest first and second side panels each having a waist edge non-parallel with a leg edge. Therefore, even if flushable components were employed in the Kuen disposable device, the combination would still result in a garment having rectangular elastic straps with parallel waist and leg edges positioned toward the hips of the wearer and at an angle in the range of from 25° to 45° from horizontal when viewed from a frontal position.

For at least the reasons given above, Applicants respectfully submit that the disclosures of Kuen '162 in view of Yeo and Wallach fail to disclose or

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suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

**C. Kuen '162 in view of Kuen '789**

The rejection of Claims 3 and 35 under 35 USC §103(a) as being unpatentable over Kuen '162 in view of Kuen '789 (U.S. Patent No. 5,423,789) is respectfully traversed.

Claims 3 and 35 both recite that each of the fastening components comprises a loop material and each mating fastening component comprises a hook material. Similar to Kuen '162, Kuen '789 discloses a garment including strap members that connect a front waist region of the garment to a back waist region of the garment. As shown in Figs. 1 and 3 of Kuen '789, the strap members have a generally rectangular shape wherein both the waist edge of the strap and the leg edge of the strap are linear and substantially parallel to each other.

The Examiner suggests that it would be obvious to one of ordinary skill in the art to reverse the components of Kuen '162 such that the side panel fastener components are loop material while the chassis fastener components are hook material in view of the interchangeability as taught by Kuen '789. However, both Kuen '162 and Kuen '789 fail to disclose or suggest first and second side panels each having a waist edge non-parallel with a leg edge. Therefore, even if the fastening components of Kuen '162 were reversed, the resulting garment would still have rectangular elastic straps with parallel waist and leg edges positioned toward the hips of the wearer and at an angle in the range of from 25° to 45° from horizontal when viewed from a frontal position.

For at least the reasons given above, Applicants respectfully submit that the disclosure of Kuen '162 in view of Kuen '789 fail to disclose or suggest Applicants' claimed invention. Thus, Applicants respectfully request withdrawal of this rejection.

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**D. Kuen '162 in view of LaFortune et al.**

The rejection of Claim 4 under 35 USC §103(a) as being unpatentable over Kuen '162 in view of LaFortune et al. (U.S. Patent No. 5,669,901) is respectfully traversed.

Claim 4 is directed to a garment including two fastening components and two mating fastening components each comprising hook material, and two fastening components and two mating fastening components each comprising loop material. Similar to Kuen '162, LaFortune et al. disclose a garment including a pair of strap members that connect a front waist region of the garment to a back waist region of the garment. As shown in Figs. 1 and 6 of LaFortune et al., the strap members have a generally rectangular shape wherein both the waist edge of the strap and the leg edge of the strap are linear and substantially parallel to each other.

The Examiner suggests that it would be obvious to one of ordinary skill in the art to make the hook fastening components and loop mating fastening components of Kuen '162 fastening components including two hook and two loop material components and the mating fastening components including two loop and two hook material components, respectively, instead, in view of the interchangeability as taught by LaFortune et al.

However, both Kuen '162 and LaFortune et al. fail to disclose or suggest first and second side panels each having a waist edge non-parallel with a leg edge. Therefore, even if the fastening components of Kuen '162 were interchanged, the resulting garment would still have rectangular elastic straps with parallel waist and leg edges positioned toward the hips of the wearer and at an angle in the range of from 25° to 45° from horizontal when viewed from a frontal position.

For at least the reasons given above, Applicants respectfully submit that the teachings of Kuen '162 in view of LaFortune et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

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**E. Kuen '162 in view of LaFortune et al.**

The rejection of Claims 22, 24, 26, and 28 under 35 USC §103(a) as being unpatentable over Kuen '162 in view of Ygge et al. (U.S. Patent 5,549,593) is respectfully traversed.

Claims 22, 24, 26, and 28 are each directed to absorbent garments having a fastening material on an inner surface of the chassis and a mating fastening material on an outer surface of the releasably attached side panels. Ygge et al. show an absorbent garment having fastening material on either an inner surface or an outer surface with a corresponding waist belt having mating fastening material on either an inner surface or an outer surface. As shown in Figs. 2, 3, 6, and 7 of Ygge et al., the waist belt has a generally rectangular shape wherein both the waist edge of the belt and the leg edge of the belt are linear and substantially parallel to each other.

The Examiner suggests that it would be obvious to one of ordinary skill in the art to make the chassis outside fasteners and the inside side panel mating fasteners of Kuen '162 chassis inside fasteners and side panel outside mating fasteners instead in view of the interchangeability as taught by Ygge et al.

However, both Kuen '162 and Ygge et al. fail to disclose or suggest first and second side panels each having a waist edge non-parallel with a leg edge. Therefore, even if the locations of the fastening components of Kuen '162 were interchanged, the resulting garment would still have rectangular elastic straps with parallel waist and leg edges positioned toward the hips of the wearer and at an angle in the range of from 25° to 45° from horizontal when viewed from a frontal position.

For at least the reasons given above, Applicants respectfully submit that the disclosures of Kuen '162 in view of Ygge et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

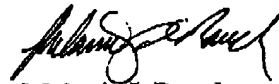
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**Conclusion**

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



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